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Maine State Board of Arbitration and Conciliation Annual Report, Fiscal Year 2001

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STATE BOARD OF ARBITRATION AND CONCILIATION

ANNUAL REPORT

FISCAL YEAR 2001

This report is made pursuant to 26 M.R.S.A. § 931 (1988 and Supp. 2000).

Administrative Developments. While there were several appointments and reappointments to the Board this year, the net effect was that two new individuals have been appointed to the Board. On January 30, Governor King appointed Alternate Chair Shari Broder of Freeport to become the Primary Chair. Chair Broder is an attorney whose practice is concentrated in the area of alternative dispute resolution, and who previously served as a member of the Panel of Mediators. At the same time, Peter P. Michaud, Esq., of Cape Elizabeth, Of Counsel with the Portland law firm of Thompson, Bull, Furey, Bass & MacColl and who focuses his practice on mediation and arbitration, was appointed as an Alternate Chair. Alternate Employer Representative Kate S. Debevoise of Yarmouth and Alternate Employee Representative Shawn C. Keenan of Bath were reappointed at this time. Rounding out the January appointments was Chester G. ("Chuck") Hillier of Monmouth, who was appointed to fill out the term of Tim Wooten as an Alternate Employee Representative. The new duties and responsibilities that Tim undertook when he joined the Maine Education Association as a UniServ Director headquartered in Bangor precluded his continued service on the Board. Chuck brings extensive collective bargaining and contract administration experience to the Board, gained from his twenty years' tenure as a business agent with the Maine State Employees Association.

After 14 years of service on the Board, first as an Alternate Employer Representative and as the Primary Employer Representative for the last two years,

H. Eugene Moyers of Sedgwick notified Governor King that he would not be seeking reappointment at the end of his term. On March 26, the Governor appointed Alternate Employer Representative Virgil E. Beane of Cumberland Center to a full 3-year term as the Primary Employer Representative. On April 2, Primary Employee Representative Robert F. Bourgault was reappointed to a new term. The only other member, Barbara L. Raimondi of Auburn, continues to serve as an Alternate Chair. The competence of the Board's membership remains high, consisting of able neutrals and partisan members known throughout the Maine labor relations community. While the members miss their former colleagues, the appointment of new members brings fresh perspective to their deliberations.

Roger A. Putnam of the Maine Labor Relations Board (MLRB) staff coordinated the Board's activities and served as the primary liaison with the client community. MLRB Executive Director Marc P. Ayotte continued to serve as the Board's general administrator and legal advisor. As noted in last year's report, the Board is considering initiating formal rule-making in the coming year. As of the date this report was prepared, funding that would allow that process to occur had been included in the Governor's Part II Budget and was pending before the Legislature.

Activities of the Board. The 31 total cases filed this year compares with 30 total filings in the previous fiscal year. During the last twenty years, the year with the greatest number of filings (75) was FY 1987 and the fewest cases (23) were filed in FY 98. During that period, an average of 40.65 cases were filed each year.

As in past years, the bulk of the Board's case load involved hearing and resolving grievance disputes, requiring interpretation of

collective bargaining agreements. Grievances are disputes that arise due to differing interpretations by the parties of the provisions of their collective bargaining agreement. Of the 31 requests for services received this year, the 24 filings involving grievance arbitration matters were as follows:

<u>Bargaining Agent</u>	<u>Employer</u>	<u>Issue</u>
AFSCME, Council 93	Cumberland County	Filling of Trustee Coordinator Position
AFSCME, Council 93	Cumberland County	Work Area Access
AFSCME, Council 93	Cumberland County	Shift Transfer
AFSCME, Council 93	Penobscot County	Discipline
AFSCME, Council 93	Penobscot County	Suspension/Demotion
AFSCME, Council 93	Penobscot County	"Posting" Without Just Cause
AFSCME, Council 93	Sanford	Overtime Grievance
AFSCME, Council 93	Sanford	Discipline
AFSCME, Council 93	Sanford	Discharge
AFSCME, Council 93	Winslow	Suspension & Discharge
Bridgton Federation of Public Employees	Bridgton	Wage Grievance
IAFF, Local 1650	Bath	Overtime
IBPO, Local 468	Lisbon	Wage Increase Calculation
Me. Assn. of Police	Auburn	Suspension
Machias Ed. Assn./MEA	Machias	Salary Grievance
South Portland Police Patrol & Command Assns.		South Portland Health Insurance Coverage

Teamsters Local 340	Augusta	Classification/ Compensation
Teamsters Local 340	Biddeford	Discharge
Teamsters Local 340	Kennebunk	Standing/Quit Voluntary?
Teamsters Local 340	Lincoln	Suspension
Teamsters Local 340	Rockland	Discipline
Topsham Employee Assn.	Topsham	Dues Deduction
York County Patrol Assn.	York County	Seniority Wage Adjustment

Conciliation is a process during which the partisan members of the assigned Board panel, the Employee and Employer Representatives, meet with “their” respective party, assess that party’s real needs and concerns in the matter at issue, and help the party to determine the relative strengths and weaknesses of their position. The partisan members then caucus to ascertain whether an agreed-to resolution is possible and, if so, work with the parties in achieving settlement. The Board believes that parties resolving their dispute through mutual understanding and accord is far preferable to having a solution be imposed by fiat of a third party; accordingly, we attempt to conciliate every case presented to us. Of the 12 grievance arbitration cases on which the Board met this year, settlement was reached in four cases. Eight cases were withdrawn by the parties prior to hearing and 17 cases are pending.

The Board also received 6 requests for fact-finding services this year, up from 3 requests received last year. The latter type of case arises when parties, with or without the assistance of a mediator, are unable to reach accord on an initial or successor collective bargaining agreement. The following requests for fact-finding were received this

year:

<u>Bargaining Agent</u>	<u>Employer</u>	<u>Result</u>
Brewer Ed. Assn.	Brewer School Comm.	Report issued, with clarification
Jefferson Teachers Assn.	Jefferson School Comm.	Withdrawn
Old Orchard Beach Patrolmen's Assn.	Old Orchard Beach	Pending
Pentagoet Teachers Assn.	MSAD #31	Withdrawn
MSAD #15 Teachers Assn.	MSAD #15 Bd. of Dir.	Awaiting Report
MSAD #54 Teachers Assn.	MSAD #54 Bd. of Dir.	Awaiting Report

Interest arbitration is the final step of the statutory dispute resolution mechanism under the various public sector labor relations laws. The major difference between fact-finding and interest arbitration is that, in the latter process, the panel's determinations are binding on the parties, except in regard to disputes concerning wages, pensions, and insurance. The Board received one request for interest arbitration services this fiscal year to resolve a negotiating impasse between Teamsters Union Local 340 and Oxford County. That case was pending on the date this report was prepared.

In addition to participating in formal dispute resolution proceedings, the Board's Primary Members conducted a seminar entitled Decision-Making in Arbitration at the Augusta State Armory on June 8. Over 30 practitioners from the labor- management community attended and there was extensive give-and-take between the attendees

and the panel. The Board of Overseers of the Bar allowed attorneys 2.5 hours of continuing legal education credit for attending and participating in the program.

The Board of Arbitration and Conciliation is pleased with its achievements, particularly with its reputation for fairness in the labor relations community. The Board's mission is to improve the labor-management climate in the public sector by providing high quality professional services to our client community, helping in the resolution of their disputes.

Dated at Augusta, Maine, this 29th day of June, 2001.

Respectfully submitted,

Director

Marc P. Ayotte, Executive
Maine Labor Relations Board